

02-R-1380

A RESOLUTION BY

CITY UTILITIES COMMITTEE

AS Substituted

A RESOLUTION TO AUTHORIZE PAYMENT OF PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF FIVE THOUSAND DOLLARS AND 00/100 (\$5,000.00) AS A PENALTY FOR AN ALLEGED VIOLATION OF THE GEORGIA WATER QUALITY CONTROL ACT RESULTING FROM A SPILL OF TOTAL SUSPENDED SOLIDS OCCURRING ON FEBRUARY 6, 2002 AT THE R.M. CLAYTON WATER RECLAMATION CENTER; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, on February 6, 2002 the City experienced a spill of total suspended solids at the R.M. Clayton Water Reclamation Center as set out in Exhibit "A" hereto; and

WHEREAS, on July 24, 2002, the Environmental Protection Division of the Georgia Department of Natural Resources (EPD) issued an Expedited Enforcement Compliance Order, No. EPD-PCEP-02-342, for an alleged violation of the Georgia Water Quality Control Act resulting from the spill of total suspended solids set out in Exhibit "A"; and

WHEREAS, the EPD Compliance Order requires payment by the City of Atlanta of \$5,000 and submittal of a schedule for installation of a closed loop sampler; and

WHEREAS, on August 12, 2002, the Department of Public Works submitted to EPD a proposed schedule for installation of a closed loop sampler; and

WHEREAS, the Department of Public Works of the City does not dispute the fact this violation of spill of total suspend solids did occur; and

WHEREAS, the payment to EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, funds for this purpose are available in account number 2J01-529017-M51001; and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed penalty and to pay the incident assessments to them.

**NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:**

**Section One:** That the Chief Financial Officer of the City is authorized to issue a check in the amount of Five Thousand Dollars and 00/100 (\$5,000.00) payable to the **State of Georgia** for penalties imposed pursuant to the Expedited Enforcement Compliance Order, No. EPD-PCEP-02-342 at the discretion of the Environmental Protection Division of the Department of Natural Resources of the State of Georgia; and

**Section Two:** That the said payments be chargeable to Account Number 2J01 529017 M51001.

## EXHIBIT A

The City is subject to penalties as follows:

Date	Facility	Violation	Penalty	Comment
2/6/02	RM Clayton	Major outfall spill of total suspend solids of 201 mg/l	\$5,000	Installation of a closed loop sampler required

GEORGIA ENVIRONMENTAL PROTECTION DIVISION  
PERMITTING, COMPLIANCE, AND ENFORCEMENT PROGRAM  
4220 INTERNATIONAL PARKWAY, SUITE 101  
ATLANTA, GEORGIA 30354

EXPEDITED ENFORCEMENT COMPLIANCE ORDER AND SETTLEMENT AGREEMENT

PART I: COMPLIANCE ORDER

Permit Nos.: GA0021482

R. M. Clayton Water Reclamation Center  
(Name of Facility)

2440 Bolton Road, N. W.  
(Facility Address)

Atlanta, Georgia 30335

Name of Owner, Operator, or Responsible

Official: Mr. David Peters, Deputy Commissioner, Department of Public Works

City of Atlanta  
(Address)

55 Trinity Avenue S. W., Suite 5800 City Hall South

Atlanta, Georgia 30335-3029

The Environmental Protection Division (EPD) is aware of the fact that City of Atlanta's (City) R. M. Clayton Water Reclamation Center (Facility) experienced one unpermitted discharge that entered the waters of the State (Chattahoochee River) a major outfall spill of Total Suspended Solids (TSS) of 201 mg/L occurring on February 6, 2002. Noncompliance with permit requirements and unpermitted discharges to the waters of the State are violations of your NPDES Permit, Chapter 391-3-6 of the Georgia Rules and Regulations for Water Quality Control, and Title 12, Chapter 5 of the Official Code of Georgia Annotated (Code). The following violations noted, in accordance to section 12-5-52 of the Code and its corresponding settlement amount, are listed below:

391-3-6-.05 [12-5-29(a)], Settlement \$ 5,000.00

Nature of Violation: a major outfall spill of Total Suspended Solids (TSS) of 201 mg/L occurring on February 6, 2002

391-3-6-.06(4)(a) [12-5-52(a)], Settlement \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

391-3-6-.05 [12-5-29(a)], Settlement \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

750-3- - [13-51- ], Settlement \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

TOTAL SETTLEMENT AMOUNT \$5,000.00

The City of Atlanta is hereby ordered to correct the violation and pay the settlement amount.

This Compliance Order is issued solely with reference to the Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the City of Atlanta within 30 days of receipt, this Compliance Order can be withdrawn without prejudice to EPD's ability to file additional enforcement actions for the above violation or any other violations.

Part II: SETTLEMENT AGREEMENT

The Georgia Environmental Protection Division (EPD) offers this Settlement Agreement as an expedited enforcement procedure in order to settle the violation listed in the Compliance Order in Part I of this form subject to the following terms and conditions:

The City of Atlanta, by signing below, certifies under penalty of law that: a) the information submitted in this and all attached documents has been personally examined and that the City of Atlanta is familiar with the information, b) the **CITED VIOLATIONS WILL BE CORRECTED**, c) payment of the settlement amount in the form of a check made payable to the Department of Natural Resources for \$5,000 will be remitted within 30 days of the execution of the Order, and d) submit to EPD, within 30 days of the execution date of the Order, a schedule with milestone dates for installation of a closed loop sampler to ensure that non-contaminated samples are collected on a continuous basis. Once approved by EPD, the major milestones in the schedule for installation of sampling equipment shall become part of the Order.

Upon EPD final approval of this Settlement Agreement, EPD will take no further action against the City of Atlanta for the specific violation described in this Compliance Order. EPD does not waive any enforcement action by EPD, the State, or any local agencies for any past, present or future violations of the Water Quality Control Rules. This Order does not relieve the City of Atlanta of any obligations or requirements of the Permit.

This Settlement Agreement is binding on EPD and the City of Atlanta once it is signed below. This Settlement Agreement is not negotiable and is effective upon EPD's final approval below. Upon final approval, EPD shall mail a copy of the approved Settlement Agreement to the City of Atlanta signing below.

Final approval of the Settlement Agreement is in the sole discretion of the Director of EPD, or authorized delegate.

BY (print name):

DAVID W. PETERS

TITLE:

DEP. COMM. R.W.

SIGNATURE:

David W. Peters

DATE:

5/21/02

FINAL ORDER BY EPD this

24<sup>th</sup> day of July, 2002

Harold F. Reheis  
Harold F. Reheis, Director

COMPLIANCE ORDER NO: EPD-PCEP-02-342

# TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE \_\_\_\_\_ GREG PRIDGEION \_\_\_\_\_

(For review & distribution to Execution Management)

Commissioner's Signature:  Director's Signature \_\_\_\_\_

From: Origination Dept. PUBLIC WORKS Contact (name): Ben Taube x 6752 or  
David W. Peters x 6073

Committee(s) Purview: City Utilities Committee Committee Deadline:

Committee(s) Meeting Dates: August 27, 2002 City Council Meeting Date: September 3, 2002

## CAPTION:

A Resolution to authorize payment of penalties imposed by the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) in the amount of five thousand dollars and 00/100 (\$5,000.00) as a penalty for an alleged violation of the Georgia Water Quality Control Act resulting from a spill of total suspended solids occurring on February 6, 2002 at the RM Clayton Water Reclamation Center; to identify the source of funding; and for other purposes.

## BACKGROUND/PURPOSE/DISCUSSION:

The City experienced a spill of total suspended solids at the R.M. Clayton Water Reclamation Center as set out in Exhibit A.

## FINANCIAL IMPACT (If Any):

Mayor's Staff Only

Received by Mayor's Office: 8/26/02 Reviewed by: \_\_\_\_\_  
(date) (initials) (date)

Submitted to Council: \_\_\_\_\_

Action by Committee: Approved \_\_\_\_\_ Adverse \_\_\_\_\_ Held \_\_\_\_\_ Amended \_\_\_\_\_

Substitute \_\_\_\_\_ Referred \_\_\_\_\_ Other \_\_\_\_\_